

Fresno, California

December 5, 2006

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Jerry Duncan	Council President

Absent:	Larry Westerlund	Councilmember (Naval Reserve duty)
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Andy Souza, City Manager  
James Sanchez, City Attorney  
Becky Klisch, City Clerk  
Yolanda Salazar, Assistant City Clerk

Pastor Terrie Purgason of the First Baptist Church gave the invocation, and Councilmember Boyajian led the Pledge of Allegiance.

Add-on: RECOGNITION AWARD TO GAY AMEND FOR HER CONTRIBUTIONS TO DISTRICT 1 - COUNCILMEMBER BOYAJIAN

Presented.

PRESENTATION BY THE DOWNTOWN FRESNO COALITION OF THE CITYSCAPE AWARD TO THE PARKS, RECREATION AND COMMUNITY SERVICES DEPARTMENT - COUNCILMEMBERS BOYAJIAN AND STERLING

Presented.

PRESENTATION OF THE SPCA PET OF THE MONTH - COUNCILMEMBER CALHOUN

The pet of the month available for adoption, a 10 month old male Chihuahua, was presented.

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APPROVE JOINT POWERS FINANCING AUTHORITY (JPFA) MINUTES OF NOVEMBER 28, 2006

On motion of Member Boyajian, seconded by Member Duncan, duly carried, RESOLVED, the JPFA minutes of November 28, 2006, approved as submitted.

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APPROVE CITY COUNCIL MINUTES OF NOVEMBER 28, 2006

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the City Council minutes of November 28, 2006, approved as submitted.

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

COUNCILMEMBER STERLING: (1) Thank you to staff for clean-up of Clinton Avenue between Blythe and Cornelia; and (2) request for status of street re-openings at the Running Horse project, with ACM Ruiz advising Marks and California would be opening in the next few days but the other streets would take longer and he would provide an update.

COUNCILMEMBER DAGES: FAX/Handy Ride policy of setting up Handy Ride trips for children six years of age and older only and request staff look into eliminating the age provision due to children under six in need of the service.

COUNCILMEMBER CALHOUN: Request staff address the bottleneck problem on W. Herndon Avenue at N. Polk, with ACM Ruiz stating he would meet with Councilmember Calhoun this week to discuss options.

PRESIDENT DUNCAN: (1) Good news received yesterday from Caltrans that construction will start on the widening of the Herndon off-ramp on Freeway 41 going northbound; and (2) request staff look into Bentley's Market parking their two catering trucks on Friant Road at Fresno and at Audubon after the owner of Bentley's indicated the Mayor told him he saw no reason why the trucks could not be parked there. Later in the meeting under "Unscheduled Communication", City Manager Souza advised the owner of Bentley's was told by the Mayor that the City would look into whether there was any legal way the trucks could park there and after looking into the issue it was found they could not and the owner was so informed of that, and apologized for any misunderstanding.

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#### **APPROVE AGENDA:**

**(10:30 A.M.)** CONTINUED HEARING ON PLAN AMENDMENT NO. A-06-01, REZONE APPLICATION NO. R-06-20 AND ENVIRONMENTAL FINDINGS FILED BY C.U.R.E./GRANVILLE HOMES, INC., PROPERTY LOCATED ON THE EAST SIDE OF N. BLYTHE AVENUE BETWEEN W. DAKOTA AND W. ASHLAN AVENUES (*Continue to 4:45 p.m. this date*)

Continued as noted.

**(2-A) BILL FOR INTRODUCTION AMENDING THE FRESNO MUNICIPAL CODE RELATING TO LOCAL PREFERENCE IN COMPETITIVE PROCUREMENT PROCESSES - COUNCILMEMBER DAGES**

Rescheduled for January 23, 2007, at 10:30 a.m.

**(5:00 P.M. #1) APPROVE DOCUMENTS RELATING TO THE NEW PARK IMPACT FEES**

**1. RESOLUTION** - APPROVING THE REALLOCATION OF \$12,450,000 WITHIN PREVIOUSLY APPROVED PROJECTS AND ESTABLISHING THREE NEW PROJECTS WITHIN THE PARKS IMPACT FEE BOND FUND

**2. RESOLUTION** - DECLARING THE OFFICIAL INTENT OF THE CITY OF FRESNO TO REIMBURSE CERTAIN EXPENDITURES FROM PROCEEDS OF INDEBTEDNESS

City Clerk Klisch advised the above resolutions were subject to the Mayor's veto which was not so indicated on the agenda.

**DECEMBER 12 AGENDA HEARING SCHEDULE RELATIVE TO THE 10:00 A.M. CONTINUED HEARINGS ON CITY-WIDE TRAFFIC SIGNAL AND MAJOR STREET IMPACT FEES**

City Clerk Klisch advised staff was changing the above hearings to workshops on that date and a tray memo on the issue would be sent out this date. Discussion ensued after the following issue.

**UPCOMING CITY COUNCIL MEETING (HOLIDAY VACATION) SCHEDULE - PRESIDENT DUNCAN**

President Duncan noted with the approved meeting schedule and upcoming holidays there would be no Council meetings between December 12th and the swearing-in meeting of January 9<sup>th</sup>, and upon his question it was the consensus of Council to go with the hearing schedule as set and *not* schedule a meeting on December 19<sup>th</sup>, Christmas week.

**DECEMBER 12<sup>TH</sup> IMPACT FEE HEARINGS - COUNCILMEMBER CALHOUN**

Relative to staff changing the hearings to workshops Councilmember Calhoun stated that was a pretty major change, the matter was scheduled for action and now there would be no action, he and Councilmember Westerlund wanted the fees dealt with on December 12<sup>th</sup>, a discussion and vote was needed on whether to change the hearings to workshops, he had no trust in staff and this process, there was no indication when action was being continued to, and all he saw ahead were continued delays.

ACM Ruiz and City Attorney Sanchez responded throughout advising staff wanted to hold workshops because significant progress was being made with the stakeholders and the December 12<sup>th</sup> date was too soon for action, the hearings were scheduled and Council could make a decision on December 12<sup>th</sup> on whether to hold the hearings or conduct workshops, and Councilmember Calhoun could place his dissatisfaction with the change on the record today as no action could be taken, whereupon Councilmember Calhoun reiterated his opposition to the change. Councilmembers Boyajian and Sterling spoke in support of holding workshops stating they would be productive and would allow the time necessary to work things out. Mr. Ruiz stated the workshops would be scheduled for next week and the hearings would be continued to a date certain -- January 23<sup>rd</sup>.

On motion of Acting President Perea, seconded by Councilmember Dages, duly carried, RESOLVED, the **AGENDA** hereby approved, *as amended*, by the following vote:

Ayes	:	Boyajian, Dages, Perea, Sterling, Duncan
Noes	:	Calhoun
Absent	:	Westerlund

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### **ADOPT CONSENT CALENDAR:**

Councilmember Calhoun pulled Item **1-C**, Councilmember Sterling pulled Item **1-K**, and Councilmember Boyajian pulled Items **1-G**, **1-H** and **1-M** from the Consent Calendar for separate discussion/action.

**(1-A)** AWARD A ONE YEAR REQUIREMENTS CONTRACT, WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS, TO SILVAS OIL COMPANY FOR CARB ULTRA LOW SULFUR DIESEL (ULSD) FUEL IN THE AMOUNT OF \$4,081,762.60

**(1-B)** APPROVE A ONE-YEAR EXTENDED MAINTENANCE AGREEMENT, WITH AN ADDITIONAL FOUR ONE-YEAR RENEWAL OPTIONS, WITH SIEMENS TRANSPORTATION SYSTEMS, INC., TO PROVIDE THE DOT/FAX WITH A FIXED PRICE FOR MAINTENANCE ON ITS AUTOMATIC VEHICLE LOCATING SYSTEM AND GLOBAL POSITIONING SYSTEM; AND AUTHORIZE THE DIRECTOR OF TRANSPORTATION TO EXECUTE ALL NECESSARY CONTRACT DOCUMENTS ON BEHALF OF THE CITY

**(1-D)** APPROVE THE SALE OF AN ABANDONED WATER WELL SITE LOCATED AT W. HEDGES AND N. MILBURN AVENUES TO THE ADJACENT PROPERTY OWNERS JUDY BACORN AND PERNELL PERRY, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND COMPLETE THE DISPOSAL OF THE WATER WELL SITE TO THE ADJACENT PROPERTY OWNERS

**(1-E)** APPROVE A CONSTRUCTION CONTRACT WITH HOBBS CONSTRUCTION IN THE AMOUNT OF \$258,722.50 TO INSTALL IRRIGATION AND LANDSCAPING AT EXISTING MEDIAN ISLANDS WEST OF GOLDEN STATE BOULEVARD ON SHAW AVENUE TO SR-99

**(1-F) RESOLUTION NO. 2006-533 - 47<sup>TH</sup>** AMENDMENT TO THE AAR APPROPRIATING \$305,000 FOR MAINTENANCE OF C.F.D. NO. 2 FOR ELIGIBLE DEVELOPER DEPOSIT REFUNDS

**(1-I)** AUTHORIZE THE CHIEF OF POLICE TO EXECUTE THE REQUIRED PROGRAM DOCUMENTS AND ACCEPT THE CALIFORNIA KIDS' PLATES MINI-GRANT OF \$5,000

**1. RESOLUTION NO. 2006-534 - 26<sup>TH</sup>** AMENDMENT TO THE AAR APPROPRIATING THE \$5,000 INTO THE POLICE DEPARTMENT'S FY 2007 BUDGET

**(1-J) RESOLUTION NO. 2006-535 - APPROVING THE FINAL MAP OF TRACT NO. 5413 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, SOUTHEAST CORNER OF E. HAMILTON AND S. ARMSTRONG AVENUES**

**1. AUTHORIZE THE PUBLIC WORKS DIRECTOR, PUBLIC UTILITIES DIRECTOR, AND PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE NECESSARY DOCUMENTS**

**(1-L)** APPROVE AMENDMENTS TO THE AGREEMENTS BETWEEN THE CITY AND THE CITY'S TWO INDEPENDENT HEARING OFFICERS, JAMES DONABED AND ALAN YENGOYAN, FOR HEARING OFFICER SERVICES

**(1-N) BILL NO. B-165 - ORDINANCE NO. 2006-170 - APPROVING THE SAN JOAQUIN VALLEY POWERS AGREEMENT AND AUTHORIZING THE SUBMITTAL OF AN IMPLEMENTATION PLAN FOR A COMMUNITY CHOICE AGGREGATION PROGRAM BY THE SAN JOAQUIN VALLEY POWER AUTHORITY (SJVPA); AUTHORIZE THE CITY MANAGER TO EXECUTE THE FINAL JPA TO ESTABLISH THE SJVPA; APPOINT THE CITY MANAGER TO SERVE AS A DIRECTOR ON THE SJVPA; AND DIRECT STAFF TO FINALIZE NEGOTIATION OF PROGRAM AGREEMENT 1 FOR COUNCIL REVIEW**

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Duncan  
Noes : None  
Absent : Westerlund

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**“CONTESTED” CONSENT CALENDAR:**

**(1-C) REJECT ALL MULTI-PRIME BIDS FOR THE FRESNO YOSEMITE INTERNATIONAL AIRPORT (FYI) BAGGAGE CLAIM PROJECT**

Councilmember Calhoun stated this was second time bids were being rejected, a state-of-the-art baggage system was needed, the issue needed to be seriously looked at if cost was the reason for the rejection, and he did not want to see a third rejection. Aviation Director Widmar responded and clarified issues, stated staff could have made a mistake by including some subsidiary information and explained, and advised how staff will repackaging the project. Councilmember Boyajian left the dais during Mr. Widmar’s comments.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, all multi-prime bids received for the Fresno Yosemite International Airport (FYI) baggage claim project rejected due to bids exceeding the Engineer’s estimates by up to ten times in certain instances, by the following vote:

Ayes : Calhoun, Dages, Perea, Sterling, Duncan  
Noes : None  
Absent : Boyajian, Westerlund

Councilmember Boyajian returned to the dais at 2:48 p.m.

**(1-G) ACTIONS RELATING TO THE HUGHES AVENUE WIDENING PROJECT**

**1. AWARD A CONTRACT FOR THE WIDENING OF HUGHES AVENUE SOUTH OF NEILSEN AVENUE TO YARBS ENTERPRISE IN THE AMOUNT OF \$507,081**

**2. RESOLUTION NO. 2006-536 - APPROVING THE REALLOCATION OF \$500,000 WITHIN THE PROPOSITION 111 SPECIAL GAS TAX FUND FOR THE WIDENING OF HUGHES AVENUE AT THE HOUGHTON CANAL BRIDGE**

Traffic Engineering Manager Mozier responded to questions of Councilmember Boyajian relative to whether the bridge project had been put out to bid/if the contract had come forward **(2 - 0)**, if this work will be coordinated with the bridge project, if coordination of the two projects was based on funding from Caltrans, and if the bridge project coming in two years after this project will be detrimental.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, the above contract awarded as recommended, and the above entitled Resolution Nos. 2006-536 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Duncan  
Noes : None  
Absent : Westerlund

**(1-H) REJECT ALL LOW BIDS SUBMITTED FOR STREET INFRASTRUCTURE IN NO NEIGHBORHOOD LEFT BEHIND NO. 62**

Assistant Public Utilities Director Andersen and City Attorney Sanchez responded to questions and comments of Councilmember Boyajian relative to the City's hearing officer finding in favor of the lowest bidder (Seal Rite), why staff was making this a "big issue", if costs will increase if bids are rejected and the project rebid, staff's rejection/appeal of the bid/hearing officer's finding being the reason that the prices and time line will no longer be valid, Deputy City Attorney Coyle providing a good summation, and if it was staff's position that the project may have to be rebid anyway due to price difference.

Councilmember Boyajian stated he supported giving the City Attorney the opportunity to see if the prices offered in bid are legally binding if Council wants to award the bid to Seal Rite and made a motion to delay action. President Duncan requested the City Attorney also look into the issue of the December 31<sup>st</sup> time line.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Item 1-H continued one week, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Duncan
Noes	:	None
Absent	:	Westerlund

**(1-K) APPROVE PROGRAM CHANGES TO THE STATE AND FEDERALLY FUNDED FIRST-TIME HOME BUYER ASSISTANCE PROGRAMS BY INCREASING THE LOAN AMOUNT TO A MAXIMUM OF \$75,000 AND ELIMINATING THE TARGET AREA DESIGNATION FROM THE FEDERALLY FUNDED PROGRAM**

Councilmember Sterling stated there was a lack of understanding on the elimination of the target area designation and to be fair to the 10 X 10 Committee and other organizations she wanted the matter delayed one week for continued discussion with the groups.

On motion of Councilmember Sterling, seconded by Councilmember Boyajian, duly carried, RESOLVED, the above entitled Item 1-K continued one week, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Duncan
Noes	:	None
Absent	:	Westerlund

**(1-M) RESOLUTION NO. 2006-537 - 454<sup>TH</sup> AMENDMENT TO THE MFS RES. 80-420 ESTABLISHING A LATE PERMIT PENALTY FEE RELATED TO TAXI CAB PERMITTING AND OPERATIONS IN THE BUSINESS TAX AND PERMIT REQUIREMENTS SECTION UNDER THE FINANCE DEPARTMENT**

Councilmember Boyajian stated the \$250 late fee amount really hit him and presented questions relative to how that amount was assessed, what the fee was for a taxi cab permit, if the late fee could be considered punitive, what the intent of the late fee was, and what the time line was for a late fee to be assessed, with ACM Rudd and City Attorney Sanchez responding throughout. Councilmember Calhoun complimented staff on the issue, stated the City wanted to encourage good cab companies and a good work environment, and encouraged staff to report back with an update on how the amendments approved last April were going.

On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2006-537 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Duncan
Noes	:	None
Absent	:	Westerlund

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**(2:30 P.M. #1) PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATION:**

Relative to President Duncan's earlier statement under Reports & Comments, City Manager Souza advised the owner of Bentley's was told by the Mayor the City would look into whether there was any legal way the trucks could park at the specified locations and after looking into the issue it was found they could not and the owner was so informed and apologized for any misunderstanding.

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**(2:30 P.M. #2 - “A”) RESOLUTION NO. 2006-538 - 441<sup>ST</sup> AMENDMENT TO THE MFS RES. 80-420 REVISING FEES CHARGED FOR DOG LICENSES, IMPOUNDING OF ANIMALS, AND OTHER FEES ASSOCIATED WITH ENFORCEMENT OF THE FMC REGULATING DOGS AND CATS WITHIN THE CITY**

Assistant City Controller Bradley reviewed the issue, all as contained in the staff report as submitted, and clarified these proposed fees were for dogs only and not cats, and advised if the fees are adopted this date staff was proposing the fees take effect January 1<sup>st</sup>.

Councilmember Calhoun spoke in support stating the intent was to recover costs and make people think about spaying/neutering and elaborated on the issue, and made a motion to approve staff's recommendation, which motion was seconded by Acting President Perea. SPCA Executive Director Minson responded to questions of Councilmember Boyajian relative to what percentage of people have licenses for their dogs, the large loss of revenue with unlicensed dogs and how licensing will be stepped up, and if this was the first step towards enforcement of the ordinance passed in April. President Duncan added this amendment was an incentive to people to follow the new ordinance and also provide funding for enforcement of that ordinance. Councilmember Calhoun stated it was also important for people to know more and more violators are being prosecuted and the City was not just approving and putting fees on the books and not following up, and upon his question City Attorney Sanchez confirmed there was an emphasis now on the enforcement side especially with public health and safety threats. Upon question of Councilmember Dages Mr. Sanchez also confirmed at issue this date was an increase in fees and not enforcement of the laws as commented on.

On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2006-538 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Perea, Sterling, Duncan  
Noes : Dages  
Absent : Westerlund

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**RECESS - 3:36 P.M. - 4:00 P.M.**

**(4:00 P.M.) CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:**

**(“A”) REGULAR CLOSED SESSION - EXISTING LITIGATION - CASE NAMES:**

1. COF V. FRESNO CERTIFIED DEVELOPMENT CORPORATION
2. F.O.R.C.E. (ACTIVE AND RETIRED CITY EMPLOYEES) V. COF RETIREMENT BOARD AND COF
3. PAMELA KINCAID, ET AL., V. COF, ET AL.

**(“B”) JOINT CLOSED SESSION WITH THE REDEVELOPMENT AGENCY:**

1. DECIDING WHETHER TO INITIATE LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION: REDEVELOPMENT AGENCY V. OLD ARMENIAN TOWN, LLC
2. EXISTING LITIGATION - CASE NAME: HERITAGE FRESNO; FRIENDS OF OLD ARMENIAN TOWN V. REDEVELOPMENT AGENCY (OLD ARMENIAN TOWN, LLC; CITY OF FRESNO; STATE OF CA. DEPT. OF GENERAL SERVICES; JUDICIAL COUNCIL OF CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS)

The City Council convened closed session in Room 2125 at the hour of 4:00 p.m. to consider the above matters, the Redevelopment Agency items were continued to the end of the meeting, and Council reconvened in regular open session at 5:02 p.m.

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**(4:45 P.M.) CONTINUED HEARING ON PLAN AMENDMENT NO. A-06-01, REZONE APPLICATION NO. R-06-20 AND ENVIRONMENTAL FINDINGS, FILED BY C.U.R.E./GRANVILLE HOMES, INC., PROPERTY LOCATED ON THE EAST SIDE OF N. BLYTHE AVENUE BETWEEN W. DAKOTA AND W. ASHLAN AVENUES**

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-06-01/R-06-20/T-5710/C-06-67, DATED OCTOBER 26, 2006
2. **RESOLUTION NO. 2006-539** - AMENDING THE FRESNO GENERAL PLAN AND WEST AREA COMMUNITY PLAN
3. **BILL NO. B-172 - ORDINANCE NO. 2006-171** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-1/UGM

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question staff advised the staff report as submitted was complete and there was no new information to add.

Jeff Roberts, Granville Homes, and **(3 - 0)** Nathan Magsig, Executive Director of CURE, thanked staff, spoke further to the project, and requested Council's support.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Mr. Magsig responded to comments and questions of Councilmember Boyajian relative to this project being constructed in the city's worst developed area, home prices, number of units, lack of infrastructure in the area, if the developer will contribute to signal fees, and the overriding consideration of this project being affordable housing.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for the above entitled E.A. hereby adopted, the above entitled Resolution No. 2006-539 hereby adopted, and the above entitled Bill No. B-172 adopted as Ordinance No. 2006-171, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Duncan
Noes	:	None
Absent	:	Westerlund

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**(5:00 P.M. #1) ACTIONS RELATING TO THE NEW PARK IMPACT FEES**

**1. RESOLUTION NO. 2006-540 - APPROVING THE REALLOCATION OF \$12,450,000 WITHIN PREVIOUSLY APPROVED PROJECTS AND ESTABLISHING THREE NEW PROJECTS WITHIN THE PARKS IMPACT FEE BOND FUND**

**2. RESOLUTION NO. 2006-541 - DECLARING THE OFFICIAL INTENT OF THE CITY OF FRESNO TO REIMBURSE CERTAIN EXPENDITURES FROM PROCEEDS OF INDEBTEDNESS, as amended, adding the \$38 million amount**

Upon question of President Duncan, PR&CS Director Cooper confirmed at issue this date was the reimbursement resolution and not approval of bonds, and advised the impact of bonds not passing would be addressed later in the presentation. City Attorney Sanchez further clarified the action was two-fold: (1) a reimbursement resolution in the event there is a bond issuance and (2) a non-appropriation resolution identifying specific priority projects where funds would be expended. Mr. Cooper gave a PowerPoint presentation on the issue which included Fresno: No Longer a Gateway but a Destination, Potential Projects, On-Going Projects, Partnerships, and Matching Funds for Grants.

Speaking to the issue were: Carol Mills, FUSD Board Member, who spoke to the need to explore the feasibility of joint improvements or additions to school recreational facilities; Tom Marsella, Men's Senior Baseball League, support for the North Figarden Drive park; Al Meyer, President of Bullard Babe Ruth, support for the Figarden park; Steve Weil, representing Horizon Enterprises, the private sector developer involved in the land donation for the Downtown Vagabond Skate Park project, support for the project and restated their commitment to the land donation; Robert Adams, President of the Figarden Youth Soccer League, who requested Council reconsider reinstating the \$500,000 originally included in the budget for improvement of northwest soccer fields; Dennis Dealing, Bullard Baseball, support for the Figarden park; and Roger Palomino, EOC, support for the City/EOC partnership and the gymnasium project.

Councilmember Calhoun commented on the issue at length and stated a lot of thought went into this plan, spoke in support of the Figarden Park and how it would benefit the entire community, questioned where the dollars were for the improvement of soccer fields (with Mr. Cooper advising they were reallocated/redirected and he would discuss that issue with Councilmember Calhoun later), and spoke to the Downtown Riverwalk stating it was an interesting concept but he felt it warranted further research and an assessment to determine it is feasible and explained, and made a motion to approve staff's recommendation of the reimbursement resolution and the appropriations resolution for the projects identified, with the exception of the \$1.5 million for the Downtown Riverwalk (#18), and further moved that the \$1.5 million be set aside in a contingency until Council is provided with further information to determine if it is an appropriate investment or if it should include a repayment mechanism. Upon call, the motion died for lack of a second.

Councilmember Sterling thanked staff for taking the time to talk with her about the proposal, spoke in support of the issue stating so much was needed in her district, noted approximately \$6 million would be put into her district if this plan is approved, and elaborated on the projects **(4 - 0)** and how they would benefit and strengthen her district, and made a motion to approve staff's recommendation, which motion was seconded by Councilmember Dages.

Upon question of President Duncan, Mr. Sanchez stated the two resolutions were distinct and could be voted upon separately, and relative to the reimbursement resolution advised an addition was needed to be added to make the resolution legally defensible and added the following italicized wording to the third "WHEREAS" paragraph: "WHEREAS, Section 1.150-2 of the Treasury Regulations requires ...to reimburse prior expenditures for the Projects with an estimated \$38 million in Proceeds of a subsequent borrowing;".

Lengthy discussion continued. Acting President Perea stated the parks inequity map was a good map and the plan presented would turn a lot of the red space in the southeast and southwest areas green, stated his concern naturally was with the central city that he represented and he needed to look at what opportunities there will be for residents, and presented questions relative to land banking including what the plan was for the \$4 million/how the money would be used/when it would be used, and if staff looked at other urban areas experiencing similar problems and how they addressed inner-city parks, with Mr. Cooper responding. Mr. Sanchez, Controller Rousseau and City Manager Souza responded to questions/comments of Councilmember Boyajian at length and/or clarified issues relative exactly what the two resolutions will do if adopted, amount currently in the impact fee fund, if parks currently had \$29 million in the budget, amount collected from impact fees to date, where the \$29 million was from, the MuniFinancial Report and projections, the Finance Department's analysis of bonding capacity, the department's review of MuniFinancial's report and the department's recommendations, what the annual bond debt service would be, the process and how the most important projects will be implemented and funded, projected projects, need to budget funds for repairs, and status of the Dakota/Milburn park. Councilmember Dages commended Mr. Cooper and staff for thinking way outside of the box and stated Fresno was being made a point of destination with Mr. Cooper's leadership. President Duncan stated the real issue was not being discussed, clarified he supported the plan but the issue of bonding was not here yet and staff was asking Council to commit to bonds without knowing all the facts, stated he was shocked Council was being asked to adopt the reimbursement resolution, stressed information on \$40 million bond was needed and a debate on a "pay as you go" or bonding was needed and further elaborated, and requested Council approve resolution #1 but hold off on resolution #2 as Council might be spending a lot of money it does not have that does not need to be spent. Mr. Souza clarified (1) the bond issue was fully discussed during budget hearings, (2) the adopted budget identified \$29 million in anticipated bond proceeds, (3) with the budget adopted staff had the authority to spend up \$29 million whether bonds are issued or not, and (4) at issue this date was the ability to spend money over the next 120 days to get these projects moving and get costs reimbursed from bond proceeds that have, in concept, already been identified as part of this year's budget **(5 - 0)**.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2006-540 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Duncan
Noes	:	None
Absent	:	Westerlund

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2006-541 hereby adopted, *as amended, adding the \$38 million amount to the third WHEREAS paragraph*, by the following vote:

Ayes	:	Calhoun, Dages, Perea, Sterling
Noes	:	Boyajian, Duncan
Absent	:	Westerlund

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**(5:00 P.M. #2) HEARING TO CONSIDER AN APPEAL FILED BY PAUL SALAZAR OF THE PLANNING COMMISSION'S ACTION APPROVING VESTING TENTATIVE TRACT MAP NO. 5755 AND CUP APPLICATION NO. C-06-117 FILED BY THE MCCAFFREY GROUP, PROPERTY LOCATED ON THE NORTH AND SOUTH SIDES OF N. DANTE EAST OF N. POLK AVENUE**

**1. AFFIRM CITY COUNCIL ACTION OF JULY 26, 2006, ADOPTING THE MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-05-24/R-05-122/T-5755/C-06-117, DATED JUNE 22, 2006**

**2. RESOLUTION NO. 2006-542 - APPROVING VESTING T.T. MAP NO. 5755**

**3. RESOLUTION NO. 2006-543 - APPROVING CUP APPLICATION NO. C-06-117**

President Duncan announced the time had arrived to consider the issue and opened the hearing. Planner Chamberlain gave an in-depth PowerPoint presentation on the issue, all as contained in the staff report as submitted, and recommended the appeal be denied and the Map and CUP application be approved.

Appellant Paul Salazar stated he was disappointed and disillusioned with the process and explained, and elaborated on his issues of concern and reasons for his appeal and opposition to the project, displaying a project and vicinity map to illustrate.



Gary Giannetta, Project Engineer, responded to issues/concerns expressed by Mr. Salazar and spoke further to the project, and stated he agreed with the Planning Commission's action and staff's recommendation and requested Council deny the appeal.

Speaking to the project and expressing concerns including traffic, parking, safety, rental condos, lack of compromises, and/or neighbors being kept uninformed throughout the process were: Scott Jopinger, 6428 N. Delbert; Gayle Salazar, 6407 N. Delbert; Julie Jopinger, 6428 N. Delbert; and Ernesto (last name inaudible), 6406 N. Ellendale.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Upon the request of Councilmember Calhoun, Planning Manager Unruh addressed the allegation that neighbors were not given an opportunity to be included/provide input throughout the process advising staff did provide proper notification and fully met all legal noticing requirements, and along with Assistant Traffic Engineering Manager Jones responded to questions and/or clarified issues relative to whether geographical problems were the developer's issue and not the City's, the traffic and parking issues/concerns expressed, and allegations that the streets/area will be unsafe. Councilmember Calhoun spoke to the issue, to concerns expressed, and in support of the project and the Planning Commission's conditions, and made a motion to approve staff's recommendation, which motion was seconded by President Duncan.

Mr. Jones responded to questions of Councilmember Boyajian relative to the number of units planned, why the developer was not required to pay towards a traffic signal at Polk and Sierra, if fees would be paid for the Bullard/Dante signal, rationale for not fencing the project, parking and fencing on Corona Avenue, if some portions of this project will be fenced, if staff looked into neighborhood concerns relative to access and safety, if overnight parking will be prohibited on Dante, and numerous questions on neighboring streets, parking, and bike lanes **(6 - 0)**. President Duncan advised Perrin and Liberty Hill also prohibits parking after 12 midnight and it was working great.

On motion of Councilmember Calhoun, seconded by President Duncan, duly carried, **RESOLVED**, the City Council action of July 25, 2006, hereby affirmed, the appeal filed November 3, 2006, denied and the Planning Commission's action approving Tract Map No. 5755 and CUP Application No. C-06-117 upheld, and the above entitled Resolution Nos. 2006-542 and 2006-543 hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Perea, Sterling, Duncan
Noes	:	Boyajian
Absent	:	Westerlund

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**(5:15 P.M.) APPEARANCE BY PAMELA D. YOUNG TO DISCUSS CONCERNS RELATING TO THE HINTON COMMUNITY CENTER - COUNCILMEMBER STERLING**

Appearance made with Ms. Young submitting written information into the record. City Attorney Sanchez and City Manager Souza commented on the issue and spoke briefly to the City's role as leaseholder with limited involvement, and advised staff could run a due diligence check and report back. Councilmember Sterling concurred there has been a problem and advised numerous meetings have been held, and stated she was in receipt of all the information and would present it to staff and requested Mr. Sanchez and Mr. Souza meet with Ms. Young and the Hinton Board to discuss concerns identified and see what can be done legally to get some resolution. There was no further discussion.

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**(4:00 P.M.) CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL (Continued from earlier):**

**(“B”) JOINT SESSION WITH THE REDEVELOPMENT AGENCY**

- 1. DECIDING WHETHER TO INITIATE LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION: REDEVELOPMENT AGENCY V. OLD ARMENIAN TOWN, LLC**
- 2. EXISTING LITIGATION - CASE NAME: HERITAGE FRESNO; FRIENDS OF OLD ARMENIAN TOWN V. REDEVELOPMENT AGENCY (OLD ARMENIAN TOWN, LLC; CITY OF FRESNO; STATE OF CA. DEPT. OF GENERAL SERVICES; JUDICIAL COUNCIL OF CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS)**

The City Council convened in joint closed session with the Redevelopment Agency in Room 2125 at the hour of 7:41 p.m. to consider the above matters and adjourned thereafter.

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**ADJOURNMENT**

There being no further business to bring before the City Council, the hour of 7:45 p.m. having arrived and hearing no objections, President Duncan declared the meeting adjourned.

*Approved* on the \_\_\_\_12<sup>th</sup>\_\_\_\_ day of \_\_\_\_December\_\_\_\_, 2006.

\_\_\_\_\_/s/\_\_\_\_ ATTEST:\_\_\_\_\_/s/\_\_\_\_  
Jerry Duncan, Council President Yolanda Salazar, Assistant City Clerk